



OLD KENTUCKY HOME  
DOORWAY

# City of Bardstown

DIXIE P. HIBBS, MAYOR  
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April 8, 2005



ART TREASURES IN  
ST. JOSEPH CATHEDRAL

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**FAXED**  
4-18-05

*via electronic filing*

**Re: American Cable Association Petition for Rulemaking, RM-11203**

Dear Ms. Dortch:

On behalf of the City of Bardstown, Kentucky's Cable Television Department, I write to express our strongest support for ACA's petition for rulemaking on retransmission consent. Bardstown Cable TV is a municipally owned cable company that serves customers in a rural area south of Louisville, Kentucky, and I can verify that the petition accurately describes the upcoming challenges small cable operators face in the current retransmission consent environment. Broadcasters, including those in our market, have implied that they may insist on cash-for-carriage thereby forcing us to charge our customers a corresponding amount per subscriber per month for basic cable. ACA's solution to this problem is pro-competition, pro-consumer, and deregulatory. It will benefit the consumers served by the City of Bardstown and will help keep down the costs of basic cable.

Provided below is some information about our operation and why we think the Commission needs to grant ACA's petition.

The City of Bardstown acquired the cable television system from its private owner in 1985. We operate one headend serving a total of 8,100 customers in Nelson County in rural central Kentucky. The mission of our municipal ownership is to provide a quality cable television offering at rates significantly lower than what privately owned operators typically charge. To illustrate, our in-town "Classic Cable" rate is \$24.95 for 57 channels compared to \$40.00+ in Louisville, KY or Lexington, KY on the Insight Communications systems.

The City of Bardstown rebuilt the old 1960's plant in 1998 and continues to rebuild its 450 MHz county system to a 750 MHz HFC architecture, setting the stage for even more channels and services in the near future. We deployed cable internet service January 1, 2000, launched digital cable in mid 2001, and are actively pursuing the launch of an off-air DTV tier. The DTV tier will require the consent of the local broadcast channels, however preliminary phone calls to some of the top broadcast stations have yet to be returned, causing us some concern about how they will treat us later this fall in the retransmission consent negotiations for the next election period (2006, 2007 and 2008).

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DBS competition has been a strong competitor in our markets, taking subscribers and making it difficult to increase rates. At the same time, our programming costs have increased by 10.64% annually over the past five years, outpacing the CPI by a large amount. Broadcasters demanding cash for carriage would only exacerbate our current wholesale programming cost situation.

Bardstown is located in the Louisville, KY DMA and with no other surrounding major broadcaster having sufficient Grade-B contour signal strength to overcome the Louisville stations' syndicated exclusivity rights, we have almost no negotiating power during retransmission consent talks. We did however carry the three major networks from the Lexington, KY market until the syndicated-exclusivity rights granted the Louisville stations were invoked, thus forcing Bardstown Cable TV to drop those Lexington, KY feeds in January, 1990. Ironically, during the October, 1993 retransmission consent negotiations, the major Louisville broadcasters walked away with a cash-for-carriage deal only after we chose not to drop the channels from our line-up. To be fair, since that time we have experienced a mixed bag of elections from analog must-carry to "strong-arm" demands for additional affiliated cable network carriage as part of retransmission consent. However, we fear this year's election period will bring the full return of these "strong-arm" methods with cash-for-carriage demands in the "take-it-or-leave-it" negotiating environment that syndicated exclusivity affords the broadcasters we are forced to deal with.

Because we are a non-profit organization that exists only to provide service as economically as is possible, we have no choice but to pass any cash-for-carriage costs onto our customers. They will be angry. Some will drop our service. Those that do not will have to pay more for basic cable because we will be "paying" for something we view as mutually beneficial to the broadcasters as well as to our operation. Our margin on our \$12.95 Lifeline Basic tier is practically non-existent and barely pays for the costs associated with cablecasting the offerings, mostly broadcast stations. They are not missing a "piece-of-the-pie", because there is hardly any "pie" to share.

Basically, all that ACA asks for is a right for us to shop and only when a broadcaster demands a price for retransmission consent. In our situation, we are convinced this will work to lower the cost of retransmission consent for my customers.

First, we firmly believe that should the Louisville stations demand cash, we can obtain network programming at a lower cost from other broadcasters. We can do this by receiving signals from neighboring markets, something we have done in the past.

Second, if the broadcasters in the Louisville market know alternatives exist, we are confident we will be able to negotiate a lower price. That works in every type of transaction, and it will work in retransmission consent.

As stated in the petition, the problem is not necessarily that broadcasters demand a "price" for retransmission consent. The problem is that they block our ability to find lower-cost alternatives. The petition shows how this problem will easily cost consumers and smaller cable operators upwards of \$1 billion next year. In Bardstown's case, broadcasters' demands out of the Louisville, KY DMA could cost our subscribers \$295,200 per year.

By making the limited changes requested by ACA, the Commission will bring some market discipline to retransmission consent "pricing." This will help to keep our costs down and will benefit our consumers.

As a final point, we want the Commission to know that we support local broadcasting and prefer to carry our local broadcasters. We also provide local programming with a nightly newscast on our cable system via a partnership with the local news media. We understand the importance of local programming, but we also understand how much our subscribers are willing to pay for it. The problem is the potentially higher prices being demanded by more and more owners of these stations. Most often the owners are based in corporate headquarters hundreds or thousands of miles away. Frankly, they don't care about localism. They just want our customers' money.

We fully support a fair exchange of value for carriage of local signals. But when broadcasters demand a "price," we need the ability to "shop" to get a "price" that fairly reflects the value of the signal. Please act on ACA's Petition as soon as you can.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey C. Mills".

Jeffrey C. Mills, P.E.

City Electrical Engineer

City of Bardstown, KY dba Bardstown Cable TV

cc: Mayor Dixie P. Hibbs